



1401 K Street, N.W.  
Suite 800  
Washington, D.C. 20005

**Joe A. Douglas**  
Vice President Government Relations

202-682-0153  
[jdougl@neca.org](mailto:jdougl@neca.org)

December 24, 2007

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: CC Docket No. 01-92, Developing a Unified Intercarrier  
Compensation Regime

Dear Ms. Dortch:

This is in response to a notice of ex parte meeting filed December 12, 2007 by CommPartners Holding Corporation ("CommPartners") in the above-mentioned proceeding.

CommPartners asserts the Commission cannot apply access charges to IP-originated traffic because such traffic is not Title II telecommunications traffic.<sup>1</sup> In CommPartner's view, the mere conversion of voice transmissions from IP format to time-division multiplexing (TDM) format constitutes a "net protocol conversion" sufficient to qualify interconnected VoIP traffic as an enhanced service as defined in section 64.702(a) of the Commission's rules.<sup>2</sup>

This is incorrect. The process of converting IP-format voice calls to TDM format hardly qualifies as the type of protocol change sufficient to convert an ordinary voice telecommunications service to an enhanced service. Such conversions routinely occur within the networks of telecommunications

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<sup>1</sup> Letter from Kristopher E. Twomey, Regulatory Counsel, CommPartners Holding Corp., to Marlene H. Dortch, , FCC, CC Docket No. 01-92 ( Dec. 12, 2007), at 1 (*CommPartners Letter*).

<sup>2</sup> *Id.*

providers as calls are transmitted over different types of facilities, without converting ordinary calls into “enhanced” services.<sup>3</sup>

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In its *IP-in-the-Middle* Order, the Commission made clear that a party seeking an access charge exemption must demonstrate both a net protocol conversion and some *bona fide* functionality beyond standard voice transmission service.<sup>4</sup> CommPartners fails to proffer any factual evidence of the existence of these required showings for its voice transmissions. To the contrary, the interconnected VoIP services offered by CommPartners and/or its customers appear to be indistinguishable, from a customer’s point of view, from traditional voice telecommunications services and therefore should be treated the same as any other telecommunications service for access charge purposes.

CommPartners asserts it only receives monthly access charge bills of a few hundred dollars per month or less from rural carriers, so therefore its failure to pay access charges does not impose any “strain” on rural company operations.<sup>5</sup> NECA has previously explained to the Commission, however, that the problems associated with access avoidance by interconnected VoIP providers and other entities are real and growing.<sup>6</sup> As only one example, Laurel Highland Telephone Company (“LHTC”), which has raised its concerns to the Commission regarding a provider named Choice One<sup>7</sup> (also known as One Communications), has an unpaid access charge balance due of nearly \$50,000 as of December 1, 2007. LHTC has seen the percentage of terminating minutes from Choice One increase from less than one percent of total minutes terminated on LHTC’s network, to a high of about 17 percent.

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<sup>3</sup> *Communications Protocols under Section 64.702 of the Commission’s Rules and Regulations*, Memorandum Opinion & Order and Statement of Principles, 95 FCC 2d 584 (1983).

<sup>4</sup> *Petition for Declaratory Ruling that AT&T’s Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, Order, 19 FCC Rcd 7457 (2004) (*IP-in-the-Middle Order*).

<sup>5</sup> *CommPartners Letter* at 1.

<sup>6</sup> See Letter from Joe A. Douglas, NECA, to Kevin J. Martin, Chairman, FCC, CC Docket No. 01-92 (Nov. 13, 2007); Letter from Joe A. Douglas, NECA, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (July 25, 2007); and Letter from Joe A. Douglas, NECA, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (May 2, 2007).

<sup>7</sup> See Letter from Joe. A. Douglas, NECA, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Oct. 16, 2007).

Many other local exchange carriers are facing unpaid charges based on the same arguments proffered by Choice One.<sup>8</sup> In any event, regardless of current billing amounts, permitting avoidance of access charges by entities who improperly rely on the enhanced services exemption is patently unfair to competing carriers who do pay for the use of rural networks.

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These problems will grow to untenable levels absent swift action by the Commission to confirm that access charges apply on all terminating interexchange calls, regardless of technology. Claims by CommPartners and similar entities to the effect their services are “enhanced,” that the access charge system is in need of reform, or that some individual traffic bills (so far) are small, cannot justify continued failure to pay tariffed charges for terminating access services actually provided by NECA member companies.

Sincerely,

/s/ Joe A. Douglas

Cc: John Hunter  
Scott Bergmann

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<sup>8</sup> See e.g., Letter from Geoffrey A. Feiss, Montana Telecommunications Association, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Oct. 26, 2007). See also Texas Statewide Telephone Cooperative *Comments*, WC Docket No. 07-135 (Dec. 17, 2007), at 2, 7; ITTA *Comments*, WC Docket No. 07-135 (Dec. 17, 2007), at 2; WTA *Comments*, WC Docket No. 07-135 (Dec. 17, 2007), at 22.